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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

SHARRON RENEE WINGHAM,

Defendant and Appellant.

A154193

(Solano County  
Super. Ct. No. FCR323214)

Defendant Sharron Renee Wingham appeals from a judgment of conviction, following a jury trial, of felony forgery (Pen. Code, § 470, subd. (d)) and felony theft from an elder (Pen. Code, § 368, subd. (e)). Her appellate counsel has raised no issues and asks this court for an independent review of the record to determine whether there are any issues that would, if resolved favorably to defendant, result in reversal or modification of the judgment. (*People v. Kelly* (2006) 40 Cal.4th 106 (*Kelly*); *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).) Defendant was notified of her right to file a supplemental brief but has not done so. Upon independent review of the record, we conclude no arguable issues are presented for review and affirm the judgment.

This matter arises out of a working relationship between defendant and B.M., who suffers from Parkinson's and dementia, and requires 24-hour care. For approximately three months during the summer of 2016, defendant worked as one of several in-home caretakers for B.M., who was then 89 years old. Shortly after defendant started working for B.M., he loaned her \$400 via check.

A few months later, B.M.'s daughter discovered a series of checks made out to defendant over the course of the summer, totaling \$50,000. Upon her discovery, she notified B.M.'s bank to put a stop on the checks and then contacted the sheriff's department.

Following a preliminary hearing, defendant was charged in a two-count information with one count of felony forgery and one count of felony theft from an elder by a caretaker. Defendant pleaded not guilty and was released on her own recognizance, and the matter was set for trial.

During voir dire, defense counsel made a *Batson/Wheeler* motion<sup>1</sup> based on the prosecution's challenge of an African-American juror. At the trial court's request, the prosecutor explained he had challenged the juror because the juror stated he was "leery of law enforcement," "appeared somewhat uncomfortable . . . in sitting on judgment of other people," and that he had also exercised challenges to two other prospective jurors for similar reasons who were not African-American. The prosecutor also pointed out he had used several peremptory challenges, only one of which was for an African-American and that there remained one African-American juror on the panel. The trial court denied the motion, finding the prosecution's reasons were "race-neutral" and counsel was "correct" in that he had "excused other jurors for articulating the same sort of hesitation."

After the jury was impaneled, both counsel gave opening statements, followed by the prosecution calling three witnesses over the course of four days, including B.M. Despite testifying that his "signature gets harder to identify every year," B.M. identified his signature on the \$400 check he wrote to defendant, but stated the rest of the nine checks made out to her did not bear his signature. B.M.'s daughter also identified her father's signature on the \$400 check, but testified the remaining checks did not have his signature.

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<sup>1</sup> *Batson v. Kentucky* (1986) 476 U.S. 79 (*Batson*); *People v. Wheeler* (1978) 22 Cal.3d 258 (*Wheeler*), abrogated in part by *Johnson v. California* (2005) 545 U.S. 162, 169.

Defense counsel identified one proposed witness, a former financial center manager for Bank of America. However, after an Evidence Code section 402 hearing, the trial court ruled the testimony sought from that witness was not relevant. While the court determined the witness was qualified to testify about Bank of America ATMs, which are designed to check and to guard against fraud in cases where there are “unusually large deposits” or “unusually large withdrawals,” that was not the issue at hand. Rather, the issue before the court was “whether or not these checks were forged.”

Thus, the defense evidence consisted of two exhibits. The first was a declaration from one of defendant’s former in-home clients, attesting to defendant’s good character. The second contained B.M.’s signature that he had “personally signed . . . in open [c]ourt five times.”

After the court and counsel reviewed the proposed jury instructions, counsel delivered their closing arguments, and the court proceeded to instruct the jury. The jury returned a verdict of guilt on both counts. Defendant was placed on formal probation for three years, subject to various terms and conditions, including that she serve one year in county jail. The trial court also imposed various fines and fees.

Defendant was ably represented by counsel throughout the proceedings.

The trial court did not err in denying defendant’s *Batson/Wheeler* motion, as substantial evidence supported the court’s determination. Review of a trial court’s denial of such a motion is deferential. (*People v. Lenix* (2008) 44 Cal.4th 602, 614 [“ ‘So long as the trial court makes a sincere and reasoned effort to evaluate the nondiscriminatory justifications offered, its conclusions are entitled to deference on appeal.’ ”].) The prosecution offered race-neutral reasons for challenging the African-American juror, and the court considered these explanations before denying the motion.

The trial court also did not err in exercising its discretion in excluding defendant’s proposed witness.

We see no error in the instructions, and the verdict is supported by substantial evidence.

### **DISPOSITION**

Pursuant to *Wende, supra*, 25 Cal.3d 436 and *Kelly, supra*, 40 Cal.4th 106, we have independently reviewed the entire record and have found no arguable issues on appeal. The judgment is affirmed.

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Banke, J.

We concur:

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Margulies, Acting P.J.

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Sanchez, J.

A154193, *People v. Wingham*